

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BANXCORP,

Plaintiff,

V.

LENDINGTREE, LLC,

Defendant.

Civil Action No. 10-02467
(SDW) (MCA)

**ANSWER TO FIRST
AMENDED COMPLAINT**

Defendant LendingTree, LLC (“LendingTree”), responds to the allegations of the First Amended Complaint as follows:

1. LendingTree lacks sufficient information to admit the allegations in paragraph 1 and therefore denies them.
2. Dow Jones is no longer a defendant in this case.
3. The New York Times Company is no longer a defendant in this case.
4. CNBC is no longer a defendant in this case.
5. CNN is no longer a defendant in this case.
6. MSNBC is no longer a defendant in this case.
7. Fox News is no longer a defendant in this case.
8. AOL is no longer a defendant in this case.
9. LendingTree admits the allegations of paragraph 9.
10. Move, Inc., is no longer a defendant in this case.

11. LendingTree admits that BanxCorp seeks to invoke this Court's jurisdiction under the sections cited.

12. LendingTree denies the allegations of paragraph 12.

13. LendingTree denies the allegations of paragraph 13.

14. LendingTree denies the allegations of paragraph 14.

15. This paragraph requires no response.

16. LendingTree denies the allegations of paragraph 16.

17. LendingTree denies the allegations of paragraph 17.

18. LendingTree denies the allegations of paragraph 18.

19. LendingTree lacks sufficient information concerning the alleged Bankrate acquisition. It denies the remaining allegations of paragraph 19.

20. LendingTree denies the allegations of paragraph 20.

21. LendingTree denies the allegations of paragraph 21.

22. LendingTree denies the allegations of paragraph 22.

23. LendingTree denies the allegations of paragraph 23.

24. LendingTree denies the allegations of paragraph 24.

25. LendingTree denies the allegations of paragraph 25.

26. LendingTree denies the allegations of paragraph 26.

27. LendingTree denies the allegations of paragraph 27.

28. LendingTree denies the allegations of paragraph 28.

29. LendingTree denies the allegations of paragraph 29.

30. LendingTree denies the allegations of paragraph 30.

31. The document cited speaks for itself, and LendingTree denies the allegations of paragraph 31 to the extent it is inconsistent with the document itself. Except as expressly admitted, the allegations of this paragraph are denied.

32. LendingTree lacks sufficient knowledge or information to respond to the allegations of paragraph 32 and denies them on that basis.

33. LendingTree denies the allegations of paragraph 33.

34. LendingTree denies the allegations of paragraph 34.

35. LendingTree denies the allegations of paragraph 35.

36. LendingTree denies the allegations of paragraph 36. The website screenshots copied in Exhibit C speak for themselves, and LendingTree refers the Court to the actual websites for their complete and exact layout and terms.

37. LendingTree denies the allegations of paragraph 37.

38. LendingTree states that the document to which BanxCorp refers in paragraph 38 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. Except as expressly admitted, the allegations of this paragraph are denied.

39. LendingTree states that the document to which BanxCorp refers in paragraph 39 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. Except as expressly admitted, the allegations of this paragraph are denied.

40. LendingTree states that the document to which BanxCorp refers in paragraph 40 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. Except as expressly admitted, the allegations of this paragraph are denied.

41. LendingTree denies the allegations of paragraph 41.

42. LendingTree states that the document to which BanxCorp refers in paragraph 42 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. Except as expressly admitted, the allegations of this paragraph are denied.

43. LendingTree denies the allegations of paragraph 43.

44. LendingTree denies the allegations of paragraph 44. LendingTree states that the document to which BanxCorp refers in paragraph 44 speaks for itself and refers the Court to the entire document for the complete context. LendingTree

denies that the document serves as an example for what BanxCorp may be trying to prove.

45. LendingTree denies the allegations of paragraph 45. LendingTree further states that the document to which BanxCorp refers in paragraph 45 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

46. LendingTree denies the allegations of paragraph 46. LendingTree further states that the document to which BanxCorp refers in paragraph 46 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

47. LendingTree states that the document to which BanxCorp refers in paragraph 47 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. LendingTree lacks sufficient information to respond to the remaining allegations of paragraph 47 and therefore denies them.

48. LendingTree states that the website to which BanxCorp refers in paragraph 48 speaks for itself and refers the Court to the entire website for the complete context. LendingTree denies that the website serves as an example for

what BanxCorp may be trying to prove. LendingTree lacks sufficient information to respond to the remaining allegations of paragraph 48 and therefore denies them.

49. LendingTree denies the allegations of paragraph 49.

50. LendingTree states that the document to which BanxCorp refers in paragraph 50 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. LendingTree lacks sufficient information to respond to the remaining allegations of paragraph 50 and therefore denies them.

51. LendingTree denies the allegations of paragraph 51.

52. LendingTree denies the allegations of paragraph 52. Additionally, LendingTree states that the document to which BanxCorp refers in paragraph 52 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

53. LendingTree denies the allegations of paragraph 53. Additionally, LendingTree states that the document to which BanxCorp refers in paragraph 53 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

54. LendingTree denies the allegations of paragraph 54.

55. LendingTree denies the allegations of paragraph 55. Additionally, LendingTree states that the document to which BanxCorp refers in paragraph 55 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

56. LendingTree denies the allegations of paragraph 56.

57. LendingTree denies the allegations of paragraph 57.

58. LendingTree states that the document to which BanxCorp refers in paragraph 58 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. Except as expressly admitted, the allegations of this paragraph are denied.

59. LendingTree states that the document to which BanxCorp refers in paragraph 59 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

60. LendingTree denies the allegations of paragraph 60.

61. LendingTree states that the document to which BanxCorp refers in paragraph 61 speaks for itself and refers the Court to the entire document for the

complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

62. LendingTree states that the document to which BanxCorp refers in paragraph 62 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

63. LendingTree states that the document to which BanxCorp refers in paragraph 63 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

64. LendingTree states that the document to which BanxCorp refers in paragraph 64 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

65. LendingTree states that the document to which BanxCorp refers in paragraph 65 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

66. LendingTree states that the document to which BanxCorp refers in paragraph 66 speaks for itself and refers the Court to the entire document for the

complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

67. LendingTree states that the document to which BanxCorp refers in paragraph 67 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

68. LendingTree states that the document to which BanxCorp refers in paragraph 68 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

69. LendingTree states that the document to which BanxCorp refers in paragraph 69 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

70. LendingTree states that the document to which BanxCorp refers in paragraph 70 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

71. LendingTree denies the allegations of paragraph 71.

72. LendingTree denies the allegations of paragraph 72.

73. LendingTree denies the allegations of paragraph 73.

74. LendingTree denies the allegations of paragraph 74.

75. LendingTree denies the allegations of paragraph 75.

76. LendingTree denies the allegations of paragraph 76.

77. LendingTree denies the allegations of paragraph 77.

78. LendingTree states that the document to which BanxCorp refers in paragraph 78 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove.

79. LendingTree states that the document to which BanxCorp refers in paragraph 79 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. Except as expressly admitted, the allegations of paragraph 79 are denied.

80. LendingTree denies the allegations of paragraph 80.

81. LendingTree denies the allegations of paragraph 81.

82. LendingTree denies the allegations of paragraph 82.

83. LendingTree denies the allegations of paragraph 83.

84. LendingTree denies the allegations of paragraph 84.

85. LendingTree states that the document to which BanxCorp refers in paragraph 85 speaks for itself and refers the Court to the entire document for the complete context. LendingTree denies that the document serves as an example for what BanxCorp may be trying to prove. Except as expressly admitted, the allegations of paragraph 85 are denied.

86. LendingTree denies the allegations of paragraph 86.

87. LendingTree denies the allegations of paragraph 87.

88. LendingTree denies the allegations of paragraph 88.

89. LendingTree denies the allegations of paragraph 89.

90. LendingTree denies the allegations of paragraph 90.

91. LendingTree denies the allegations of paragraph 91.

92. LendingTree denies the allegations of paragraph 92.

93. LendingTree denies the allegations of paragraph 93.

94. LendingTree denies the allegations of paragraph 94.

95. LendingTree denies the allegations of paragraph 95.

96. LendingTree denies the allegations of paragraph 96.

97. LendingTree denies the allegations of paragraph 97.

98. LendingTree denies the allegations of paragraph 98.

99. LendingTree denies the allegations of paragraph 99.

100. LendingTree denies the allegations of paragraph 100.

101. LendingTree denies the allegations of paragraph 101.

102. LendingTree denies the allegations of paragraph 102.

103. LendingTree denies the allegations of paragraph 103.

104. LendingTree denies the allegations of paragraph 104.

105. LendingTree denies the allegations of paragraph 105.

106. LendingTree denies the allegations of paragraph 106.

107. LendingTree denies the allegations of paragraph 107.

108. LendingTree denies the allegations of paragraph 108.

109. LendingTree incorporates by reference its responses to the allegations of paragraphs 1-109 of the First Amended Complaint.

110. LendingTree denies the allegations of paragraph 110.

111. LendingTree denies the allegations of paragraph 111.

112. LendingTree denies the allegations of paragraph 112.

113. LendingTree denies the allegations of paragraph 113.

114. LendingTree incorporates by reference its responses to the allegations of paragraphs 1-114 of the First Amended Complaint.

115. The cited statute speaks for itself, and this paragraph contains no allegation against LendingTree.

116. LendingTree denies the allegations of paragraph 116.

117. LendingTree denies the allegations of paragraph 117.

118. LendingTree denies the allegations of paragraph 118.

119. LendingTree denies the allegations of paragraph 119.

AFFIRMATIVE AND OTHER DEFENSES

FIRST DEFENSE

LendingTree respectfully contends that the First Amended Complaint fails to state a claim upon which relief may be granted against LendingTree.

SECOND DEFENSE

Plaintiff has failed to establish that it has the requisite antitrust standing to bring these claims.

THIRD DEFENSE

BanxCorp has failed to plead a cognizable relevant market.

WHEREFORE, having responded fully to the allegations of the First Amended Complaint, LendingTree requests that the Court:

- (a) dismiss the First Amended Complaint with prejudice;
- (b) award LendingTree its fees and costs incurred in the defense of this matter; and
- (c) grant such other relief as the Court deems equitable and just.

DEMAND FOR JURY TRIAL

LendingTree demands a trial by jury on all issues so triable.

Dated: March 7, 2011
New York, New York

McGUIREWOODS LLP

By: s/ Loree J. Shelko
Loree J. Shelko (LS-0825)
1345 Avenue of the Americas, 7th Floor
New York, New York 10105-0106
T: 212-548-2100
F: 212-548-2150
lshelko@mcguirewoods.com

James G. Middlebrooks (admitted *pro hac vice*)
Bank of America Corporate Center
100 North Tryon Street, Suite 2900
Charlotte, North Carolina 28202-4011
T: 704-343-2051
F: 704-373-8935
gmiddlebrooks@mcguirewoods.com

J. Brent Justus (admitted *pro hac vice*)
Michelle M. Christian (admitted *pro hac vice*)
One James Center
901 E. Cary Street
Richmond, Virginia 23219
T: 804-775-1000
F: 804-775-1061
bjustus@mcguirewoods.com
mchristian@mcguirewoods.com

Counsel for Defendant LendingTree, LLC

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BANXCORP,

Plaintiff,

v.

LENDINGTREE, LLC,

Defendants.

ECF CASE

CERTIFICATE OF SERVICE

**Civil Action No. 10-02467
(SDW)(MCA)**

I certify that on this date, I electronically filed the Defendant LendingTree, LLC's
Answer to the First Amended Complaint with the Clerk of this Court.

Date: March 7, 2011

Respectfully submitted,

/s/ Loree J. Shelko

Loree J. Shelko (LS-0825)

McGUIREWOODS LLP

1345 Avenue of the Americas, 7th Floor

New York, New York 10105-0106

T: 212-548-2100

F: 212-548-2150

lskelko@mcguirewoods.com

Counsel for Defendant LendingTree, LLC